

Regional Secretariat for Finance, Planning and Public Administration, Regional Secretariat for the Environment and Climate Change, Regional Secretariat for Tourism, Mobility and Infrastructures

Ordinance no. 64/2023, of 27 July 2023

Ordinance no. 25/2020, of 11 March, published in *Jornal Oficial*, I Serie, no. 35, of 11 March 2020, approved the Access Regulation to the Pico Mountain Nature Reserve in the Autonomous Region of the Azores.

The Regional Legislative Decree no. 39/2021/A, of 28 December, determined the extinction of the Society for the Environmental Management and Nature Conservation, S.A., abbreviatedly designated as AZORINA, S.A., with effect from 31 December 2021.

Given the extinction of this public entity, it is necessary to amend the mentioned ordinance concerning the competence to ensure the operation of the Mountain's House and the collection and settlement of fees.

On the other hand, the preservation of the natural values in the Pico Mountain Nature Reserve, whose reinforced protection status was approved by Regional Decree no. 15/82/A, of 9 July, which has since been reclassified and integrated into the Pico Nature Park, created by Regional Legislative Decree no. 20/2008/A, of 9 July, requires visitors to comply responsibly and strictly with the Access Regulation to the Pico Mountain Nature Reserve.

In this context, it is the responsibility of the Regional Secretariat for the Environment and Climate Change, in liaison with the civil protection services, to ensure the means of the specialised mountain rescue team, specifically trained for the development of search and rescue actions in the Pico Mountain Nature Reserve.

It is therefore fundamental to concretise the regime applicable to rescue operations motivated by non-compliance, even if negligent, with the Access Regulation to the Pico Mountain Nature Reserve, including non-compliance with the safety rules applicable to mountaineering and the rules of conduct on Pico Mountain, as well as in the case of an ascent that is not recommended or that has been requested without justification.

Finally, in view of the experience gained with the use of the Access Regulation to the Pico Mountain Nature Reserve, this document is also being improved, namely through the clarification of regulations.

The Regional Council for the Environment and Sustainable Development (CRADS) and the Association of Mountain Guides of the Azores were consulted (AGMA).

Therefore, the Regional Government of the Azores requires, through the Regional Secretary for Finance, Planning and Public Administration, the Regional Secretary for the Environment and Climate Change and the Regional Secretary for Tourism, Mobility and Infrastructures, under the terms of subparagraph *b)* of no. 1 of article 90 of the Political and Administrative Statute of the Autonomous Region of the Azores, of no. 1 of article 7 of the Regional Legislative Decree no. 30/2012/A, of 3 July, and the subparagraph *f)*, of no. 2 of article 7 of the Regional Legislative Decree no. 20/2008/A, of 9 July, together with the subparagraph *c)* of no. 1 of article 9, subparagraphs *a)* and

g) of article 14 and subparagraph a) of article 15, all from the Regional Regulatory Decree no. 6/2022/A, of 29 April, the following:

Article 1

Object

The present ordinance makes the first amendment to Ordinance no. 25/2020, of 11 March 2020, published in *Jornal Oficial*, I Serie, no. 35, of 11 March 2020.

Article 2

Amendment to Ordinance no. 25/2020, of 11 March

The articles 4, 7, 8, 9, 11, 13 and 14 of the Annex to Ordinance no. 25/2020, of 11 March 2020, are replaced by the following wording:

«Article 4

[...]

1 – [...]

2 – [...]

3 – [...]

4 – The overnight stay at the Pico Mountain crater, considering as such the climbs that begin between 16h00 and 24h00 of each day, in the period from 1 June to 30 September, and between 14h00 and 24h00 of each day, in the period from 1 October to 31 May, and which descent ends after 8h00 of the following day, is conditioned to a maximum of 32 visitors per day and reservation, with a minimum of 24 hours in advance to the beginning of the climb.

Article 7

[...]

1 – The operation of the Mountain's House is ensured by the service of the autonomous regional administration with competence in environmental issues, in coordination with the Pico Island Nature Park, ensuring its opening in the following periods:

a) [...]

b) [...]

c) [...]

2 – [...]

3 – For the purposes of the previous number, it is mandatory that the reservation is made through the electronic platform referred to in article 6.

Article 8

[...]

1 – In addition to the prior registration referred to in article 5, access to Pico Mountain is subject to the payment of the following fees:

a) [...]

b) [...]

c) [...]

d) €5.00 - per each visitor who performs the complete climbing through a service provided by the entities referred to in article 3.

2 – [...]

3 – [...]

4 – [...]

5 – The amount of the fees referred to in subparagraphs *b)* and *d)* of no. 1 and *b)* of no. 2 of this article may be subject to reduction for the entities referred to in no. 1 of article 3, under the terms to be approved by ordinance of the government member with competence in environmental issues.

6 – The reduction in the amount of the fees may be suspended, for a period to be determined in a reasoned order of the member of the Regional Government with competence in environmental issues, under the terms to be approved in the ordinance referred to in the preceding number, in case of non-compliance with the obligations contained therein or in this Regulation.

7 – In addition to the provisions of no. 5, by order of the member of the Regional Government with competence in environmental issues, payment exemptions of the fees foreseen in this article may be granted.

Article 9

[...]

1 – [...]

2 – [...]

3 – Without prejudice to the previous number, for reservations made in the last 48 hours before the climb, only the settlement of fees guarantees the right to the reservation.

4 – The service of the autonomous regional administration with competence in environmental issues ensures the full reimbursement of fees paid in advance in the following situations:

a) when the activity does not take place due to the prohibition of access to the Mountain under the terms of article 11;

b) when the activity does not take place because access to the Mountain is not recommended under the terms of article 11;

c) when the activity does not take place for duly substantiated reasons through a request from the interested parties.

Article 11

Access interdiction and constraints

1 – Access to Pico Mountain may be prohibited for safety reasons arising from a warning issued by the department of the Regional Government with competence in civil protection matters or from a meteorological warning, in the orange or red colour category, issued by the Portuguese Institute for Sea and Atmosphere;

2 – In addition to the provisions of the preceding number, access to Pico Mountain is not allowed to individuals who:

a) Do not have water for consumption and proper equipment to make the ascent, namely clothing and footwear suitable for mountaineering, flashlight, in case of night ascent, tent and sleeping bag, in case of an overnight stay, as well as crampons, in case of occurrence of ice or snow;

b) Have a mental disorder or symptoms of drunkenness or being under the influence of psychotropic substances;

c) Are accompanied by a minor under five years of age;

d) Are accompanied by a pet animal.

3 – Access to Pico Mountain is only allowed to minors aged five years old or more up to 16 years of age, provided they are accompanied by a parent or legal representative, who must sign a term of responsibility.

4 – In the case of a meteorological warning, in the yellow colour category, issued by the Portuguese Institute for Sea and Atmosphere, it is not recommended access to Pico Mountain by the service of the autonomous regional administration with competence in environmental issues.

Article 13

[...]

1 – [...]

2 – [...]

3 – In cases where the rescue is carried out as a result of non-compliance, even if negligent, with this Regulation, including non-compliance with the safety rules applicable to mountaineering and the rules of conduct on Pico Mountain, as well as in the case of an ascent that is not recommended or that has been requested without justification, the

visitor or the entity referred to in no. 1 of article 3, in the circumstances referred to in no. 5 of article 5, shall be charged the expenses inherent to the rescue of €1,200.00.

4 – [...]

Article 14

[...]

1 – It is an administrative offence, punishable under the terms of no. 2 of article 31 of Decree-Law no. 108/2009, of 15 May, in its current wording, without prejudice to the possibility that the accessory sanctions foreseen in article 32 of the same diploma may be applied and under the conditions foreseen therein, the practice of the following facts:

a) [...];

b) [...];

c) [...].

2 – [...].»

Article 3

Addition to Ordinance no. 25/2020, of 11 March

Article 14-A is added to the Annex to Ordinance no. 25/2020, of 11 March 2020, with the following wording:

«Article 14-A

Destination of revenue

The amounts collected for access fees, supplementary fees, exclusion of liability fees and other amounts referred to in this diploma shall constitute revenue of the Autonomous Region of the Azores.»

Article 4

Republishing

The Access Regulation to the Pico Mountain Nature Reserve, in the Autonomous Region of the Azores, as amended by this ordinance, is republished in the Annex to this ordinance, of which it is an integral part.

Article 5

Entry into force

This ordinance takes effect on the day following its publication.

27 July 2023. - The Regional Secretary for Finance, Planning and Public Administration, *Duarte Nuno d'Ávila Martins de Freitas*. - The Regional Secretary for the Environment and Climate Change, *Alonso Teixeira Miguel*. - The Regional Secretary for Tourism, Mobility and Infrastructures, *Berta Maria Correia de Almeida de Melo Cabral*.

ANNEX

(as referred to in article 4)

Republication of the Access Regulation to the Pico Mountain Nature Reserve, in the Autonomous Region of the Azores

Article 1

Framework and object

1 – The present regulation establishes the access policy to the Pico Mountain Nature Reserve, in the Autonomous Region of the Azores, protected area integrated in Pico Island Nature Park, applying to everyone who intends to:

- a) Enjoy Pico Mountain's landscape and its ecological and geological values;
- b) Develop other activities on Pico Mountain, namely for work purposes, scientific researches and provision of public services.

2 – The content of this ordinance does not apply to rescue, emergency and safety operations, as well as to maintenance works in the PRC4 PIC Mountain walking trail or related to nature conservation of the protected area.

Article 2

Access and type of activities

1 – The access to Pico Mountain, in the terms of subparagraph a) of no. 1 of the previous article, depends on prior registration and can be made individually or through a service provided by qualified entities.

2 – Without prejudice of compliance of specific legislation and regulation, activities referred to in subparagraph b) of no. 1 of the previous article require prior authorization of the service of the autonomous regional administration with competence in environmental issues.

3 – Visitors under the age of 16 must be accompanied by the holder of parental responsibility or a person of legal age, duly authorized by a written declaration of the first.

Article 3

Qualified entities to operate on Pico Mountain

1 – Only the entities registered as tourist entertainment companies can operate on the Pico Mountain Nature Reserve, as well as travel agencies, proprietary or operating companies of tourist enterprises and nature tourism enterprises, under the conditions

defined on the applicable law, recognized by the service of the autonomous regional administration with competence in environmental issues.

2 – The entities mentioned on the previous number provide their services through Pico Mountain guides, certified by the Regional Government department with competence in environmental issues, and shall be available, at least, one guide per each group of twelve visitors.

3 – Pico Mountain guides must carry identification and a certificate as proof that they work or provide services for an entity mentioned in no. 1 of the present article.

Article 4

Trail and load capacity

1 – The access to Pico Mountain, under the terms of the subparagraph a) of no. 1 of article 1, is made by PRC4 PIC Mountain walking trail, marked on the ground, with a maximum load capacity of 320 visitors per day.

2 – The trail's load capacity is 160 visitors, simultaneously, and can be reduced or increased, up to 25 %, by the decision of the Director of Pico Nature Park, for a specific period, based on the weather and the trail's condition.

3 – The mountain top's ("Pico Pequeno" or "Piquinho") load capacity is restricted to 30 visitors, simultaneously, without exceeding the maximum period of 20 minutes per visitor, except for visitors accompanied by a Pico Mountain guide, to which can be extended until 60 minutes, under the requirement of the entity referred to in no. 1 of the previous article.

4 – The overnight stay at the Pico Mountain crater, considering as such the climbs that begin between 16h00 and 24h00 of each day, in the period from 1 June to 30 September, and between 14h00 and 24h00 of each day, in the period from 1 October to 31 May, and which descent ends after 8h00 of the following day, is conditioned to a maximum of 32 visitors per day and reservation, with a minimum of 24 hours in advance to the beginning of the climb.

Article 5

Prior registration and authorization

1 – The prior registration referred to in no. 1 of article 2 is made at the Mountain's House and, out of its opening times, at Madalena Fire Department Headquarters through, individual or group, specific forms, which are available at the referred places and at the Regional Government website.

2 – When making the prior registration, it is available to the visitor tracking equipment and information about the present regulation, the trail conditions and average duration, the conduct and safety laws, weather forecasts and the terms and conditions of rescue operations.

3 – When the access is made through a service provided by the entities referred to in no. 1 of article 3, it is the entity's responsibility to make the prior registration and collect the tracking equipment, as well as to provide the information mentioned in the previous number to the visitors.

4 – The individual forms are accompanied with a responsibility declaration of safety and conduct in the Pico Mountain Nature Reserve and the exclusion of any responsibility of the regional administration for accidents that occur while on the trail.

5 – Group forms, including a group responsibility declaration, can only be submitted by the entities referred to in no. 1 of article 3, being the former responsible for its visitors' security and conduct.

6 – The authorization requests mentioned in no. 2 of article 2 are made to the service of the autonomous regional administration with competence in environmental issues, and the requirement must be properly founded and unequivocally identify the activity to develop and the intervention area.

Article 6

Reservation portal

1 – The service of the autonomous regional administration with competence in environmental issues ensures the existence of an online platform designated for reservations to access Pico Mountain, in the cases referred to in the subparagraph a), of no. 1 of article 1. The number of places available in the mentioned platform cannot exceed 90 % of the maximum daily load capacity defined in no. 1 of article 4.

2 – The date of the reservation made through the online platform can be changed, without any penalty, until 2 hours before the activity's beginning, but the alteration of the visitors' data is not allowed.

3 – The confirmation of the reservation made through the online platform does not exclude the necessity of prior registration and collecting the tracking equipment, in the places and terms defined in the previous article, until 2 hours after the time indicated for the activity's beginning, under penalty of the reservation's cancellation.

Article 7

Operation of the Mountain's House

1 – The operation of the Mountain's House is ensured by the service of the autonomous regional administration with competence in environmental issues, in coordination with the Pico Island Nature Park, ensuring its opening in the following periods:

- a) From 1 May to 30 September, 24 hours a day;
- b) From 1 to 30 April and from 1 to 31 October, continuously, from 08h00 of Friday to 20h00 of Sunday, and from 08h00 to 20h00 in the other days;
- c) From 1 November to 31 March, every day from 08h00 to 18h00.

2 – Out of the opening times of the Mountain's House, it is only allowed the access to Pico Mountain under the terms of subparagraph a), of no. 1 of article 1, through a service provided by the entities referred to in no. 1 of article 3, except for visitors that are resident on the Autonomous Region of the Azores.

3 – For the purposes of the previous number, it is mandatory that the reservation is made through the electronic platform referred to in article 6.

Article 8

Access fees, information and tracking equipment

1 – In addition to the prior registration referred to in article 5, access to Pico Mountain is subject to the payment of the following fees:

- a) €5.00 - per each visitor who climbs to Furna Abrigo;
- b) €2.00 - per each visitor who climbs to Furna Abrigo through a service provided by the entities referred to in no. 1 of article 3;
- c) €15.00 - per each visitor who does the full climb individually;
- d) €5.00 - per each visitor who performs the complete climbing through a service provided by the entities referred to in article 3.

2 – The access to the mountain top ("Pico Pequeno" or "Piquinho") is subject to the payment of the following additional fees:

- a) €10.00 - per each visitor who climbs individually;
- b) €5.00 - per each visitor who climbs through a service provided by the entities referred to in no. 1 of article 3.

3 – The overnight stay at Pico Mountain crater is subject to the payment of an additional fee of €10.00 per each visitor who climbs individually.

4 – The visitors who are residents on the Autonomous Region of the Azores are exempt from paying the fees referred to in the previous numbers.

5 – The amount of the fees referred to in subparagraphs b) and d) of no. 1 and b) of no. 2 of this article may be subject to reduction for the entities referred to in no. 1 of article 3, under the terms to be approved by ordinance of the government member with competence in environmental issues.

6 – The reduction in the amount of the fees may be suspended, for a period to be determined in a reasoned order of the member of the Regional Government with competence in environmental issues, under the terms to be approved in the ordinance referred to in the preceding number, in case of non-compliance with the obligations contained therein or in this Regulation.

7 – In addition to the provisions of no. 5, by order of the member of the Regional Government with competence in environmental issues, payment exemptions of the fees foreseen in this article may be granted.

Article 9

Settlement of fees

1 – The fees under the terms of the previous article are paid at the places referred to in no. 1 of article 5, on the moment of the prior registration, without prejudice of the referred to in the next number.

2 – The fees due to the reservations made through the online platform referred to in article 6 must be paid until 48 hours after the form submission, under penalty of the reservation's cancellation.

3 – Without prejudice to the previous number, for reservations made in the last 48 hours before the climb, only the settlement of fees guarantees the right to the reservation.

4 – The service of the autonomous regional administration with competence in environmental issues ensures the full reimbursement of fees paid in advance in the following situations:

a) when the activity does not take place due to the prohibition of access to the Mountain under the terms of article 11;

b) when the activity does not take place because access to the Mountain is not recommended under the terms of article 11;

c) when the activity does not take place for duly substantiated reasons through a request from the interested parties.

Article 10

Returning the tracking equipment

1 – At the end of the activity, the tracking equipment must be returned to the Mountain's House or, out of its opening times, at Madalena Fire Department Headquarters.

2 – Not returning or damaging the tracking equipment obligates the respective user to compensate for the replacement or damage caused, through the payment of €300.00 per each damaged or unreturned equipment.

3 – When the tracking equipment is available to the visitor or the entity referred to in no. 1 of article 3, they may choose to pay an exclusion of liability fee in case of damage or not return, in the amount of €30.00 per device.

Article 11

Access interdiction and constraints

1 – Access to Pico Mountain may be prohibited for safety reasons arising from a warning issued by the department of the Regional Government with competence in civil protection issues or from a meteorological warning, in the orange or red colour category, issued by the Portuguese Institute for Sea and Atmosphere;

2 – In addition to the provisions of the preceding number, access to Pico Mountain is not allowed to individuals who:

a) Do not have water for consumption and adequate equipment to make the ascent, namely clothing and footwear suitable for mountaineering, flashlight, in case of night

ascent, tent and sleeping bag, in case of an overnight stay, as well as crampons, in case of occurrence of ice or snow;

b) Have a mental disorder or symptoms of drunkenness or being under the influence of psychotropic substances;

c) Are accompanied by a minor under five years of age;

d) Are accompanied by a pet animal.

3 – Access to Pico Mountain is only allowed to minors aged five years old or more up to 16 years of age, provided they are accompanied by a parent or legal representative, who must sign a term of responsibility.

4 – In the case of a meteorological warning, in the yellow colour category, issued by the Portuguese Institute for Sea and Atmosphere, it is not recommended access to Pico Mountain by the service of the autonomous regional administration with competence in environmental issues.

Article 12

Restrained or conditioned activities

In the Pico Mountain Nature Reserve are restricted and conditioned the acts and activities listed in article 8 of the Regional Legislative Decree no. 20/2008/A, of 9 July, that establish Pico island Nature Park.

Article 13

Rescue

1 – The autonomous regional administration service with competence in environmental issues ensures the means for the constitution, technical preparation and equipment of a specialized team of mountain rescue, specifically capable of developing search and rescue actions or relief efforts in the Pico Mountain Nature Reserve.

2 – For the purposes of this Regulation, rescue is defined as a search and rescue operation or relief efforts in case of an accident, developed by a specialized team, referred to in the previous number, and necessary for the aid and assistance of one or more visitors in the Pico Mountain Nature Reserve.

3 – In cases where the rescue is carried out as a result of non-compliance, even if negligent, with this Regulation, including non-compliance with the safety rules applicable to mountaineering and the rules of conduct on Pico Mountain, as well as in the case of an ascent that is not recommended or that has been requested without justification, the visitor or the entity referred to in no. 1 of article 3, in the circumstances referred to in no. 5 of article 5, shall be charged the expenses inherent to the rescue of €1,200.00.

4 – Are considered justifiable rescue situations such as trauma injuries, bone fractures or any acute events, except fatigue, medically proved, that occur during the activity and prevent the visitor of returning to the Mountain's House by its own means or with the aid of the Pico Mountain guide, in case of access through a service provided by an entity referred to in no. 1 of article 3.

Article 14

Administrative offence policy

1 – It is an administrative offence, punishable under the terms of no. 2 of article 31 of Decree-Law no. 108/2009, of 15 May, in its current wording, without prejudice to the possibility that the accessory sanctions foreseen in article 32 of the same diploma may be applied and under the conditions foreseen therein, the practice of the following facts:

- a) The access to Pico Mountain by a non-qualified entity, in violation of no. 1 of article 3;
- b) The provision of services by the entities referred to in no. 1 of article 3 without a Pico Mountain guide, certified by the Regional Government department with competence in environmental issues, as well as the unavailability of, at least, one mountain guide for each group of twelve visitors;
- c) The Mountain guide that does not carry identification or a certificate as proof that they work or provide services for an entity mentioned in no. 1 of article 3.

3 - Without prejudice of the referred to in no. 4 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April, together with article 8 of the Regional Legislative Decree no. 20/2008/A, of 9 July, and article 12 of the present Regulation, it constitutes an infringement the following acts:

- a) The non-authorized access, the non-payment of fees, the deviation from the PRC4 PIC Mountain walking trail and the violation of the load capacity and permanence time in the mountain top, punishable as a light environmental contravention, under the terms of the subparagraph a) of no. 3 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April;
- b) The destruction or alteration of the trail's marking or any other signs, punishable as a light environmental contravention, under the terms of the subparagraph l) of no. 3 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April.

Article 14-A

Destination of revenue

The amounts collected for access fees, supplementary fees, exclusion of liability fees and other amounts referred to in this Decree-Law shall constitute revenue of the Autonomous Region of the Azores.